

Serial No: 08/870,199
Filed: June 5, 1997
Docket: 1650B US

REMARKS

Claims 1-58 are pending in the present application. By her Office Action dated November 1, 2005, the Examiner has objected to claims 1-58 as being "improper". The Examiner states that claims 1-25 should be identified as "original" "since they are again identical to the patent claims" and that claims 27-58 should all be "new" "and have only underlining".

In order to place this case in condition for allowance and comply with the Examiner's request, Applicant has re-presented claims 1-26 with the status identifier "original" as required by the Examiner and re-presented claims 27-56 with the status identifier "new" and the underlining required by the Examiner. Having complied with the Examiner's requirements, Applicant believes claims 1-56 are in condition for allowance and respectfully requests Examiner remove her objection.

The Examiner also rejected claims 57 and 58 under 5 U.S.C. 251 as "being broadened in the reissue application filed outside the two yea[r] statutory period. Removing the limitation 'greater than .5 Um in diameter' is impermissible." In this regard, Applicant once again respectfully traverses and directs the Examiner's attention to Applicant's August 2, 2005 Response and Amendment, Applicant's May 9, 2002 Response and Amendment and January 24, 2003 Response and Amendment. For the same reasons stated in these Response and Amendments, which reasons are incorporated herein, Applicant respectfully submits that removing the "greater than 0.5 μ m in diameter" limitation is permissible. Applicant continues to maintain that this broadening reissue application was timely filed on June 5, 1997, which is within the two-year window following issuance of Patent No. 5,422,376 (the original patent) on June 6, 1995. Applicant further maintains that the "0.5 μ m" limitation is not critical to patentability and that it was never characterized as such during the prosecution leading to the issuance of Patent No. 5,422,376.

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Nevertheless, in the interest of placing this case in condition for allowance, Applicant has cancelled claims 57 and 58. This amendment to the present case is made without prejudice and should in no way be deemed a concession regarding the alleged criticality of the "0.5 um" limitation. Applicant expressly reserves his right to file a continuation application directed to claims maintaining the full breadth of claims 1-30 and 57-58 as originally presented in the reissue application.

Applicant respectfully submits, therefore, that in view of the preceding remarks and arguments, the Examiner's basis for objecting to and rejecting the pending claims has been overcome, and that all remaining pending claims (claims 1-56) are now in condition for allowance. Applicant therefore respectfully requests allowance of all pending claims. Please direct any questions concerning the foregoing to the undersigned.

Respectfully submitted,



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